

UNITED STATES DISTRICT COURT
for the
Southern District of Ohio

FILED
RICHARD W. HAGEL
CLERK OF COURT

2018 MAY 29 PM 1:14

U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
FACSIMILE NUMBER

3:18-mj-398-TM

In the Matter of the Search of)
(Briefly describe the property to be searched)
or identify the person by name and address)
Case No.)
A TAN 2002 CHEVROLET SILVERADO BEARING)
OHIO LICENSE PLATE HETZEL)

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A-3

located in the Southern District of Ohio, there is now concealed (identify the person or describe the property to be seized):

See Attachment B

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- evidence of a crime;
- contraband, fruits of crime, or other items illegally possessed;
- property designed for use, intended for use, or used in committing a crime;
- a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

| Code Section | Offense Description |
|---------------------|--|
| 18 U.S.C. 922(g)(1) | Felon in Possession of Firearm or Ammunition |

The application is based on these facts:
See Attached Affidavit

- Continued on the attached sheet.
- Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.


Applicant's signature

Michael Herwig, Special Agent

Printed name and title


Sharon L. Ovington, U.S. Magistrate Judge
Printed name and title

Sworn to before me and signed in my presence.

Date: 5-29-18

City and state: Dayton, Ohio

AFFIDAVIT

Your Affiant, Michael Herwig, being duly sworn, does hereby depose and state as follows:

I.

INTRODUCTION

1. I am a Special Agent with the Federal Bureau of Investigation, and have been since March 16, 2008. As a Special Agent, I have been assigned to investigate various Domestic and International Terrorism matters and am assigned to the FBI's Cincinnati Division Joint Terrorism Task Force. I am familiar with federal firearms laws, and am aware that it is a violation of Title 18, United States Code, §§ 922(g)(1) for any person, who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year, to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

II.

PURPOSE OF AFFIDAVIT

2. I make this affidavit in support of a search warrant for each of the following, as there is probable cause to believe that evidence, contraband, fruits of a crime, and other items illegally possessed, in violation of 18 U.S.C. § 922(g)(1), are present at or in these locations/vehicle:
 - a. **4495 Infirmary Road, Miamisburg, Ohio, 45342** (hereinafter referred to as **SUBJECT PREMISES 1**, as more fully described in Attachment A-1);
 - b. **Outbuilding located behind 136 West Main Street, West Carrollton, Ohio, 45449** (hereinafter referred to as **SUBJECT PREMISES 2**, as more fully described in Attachment A-2);¹ and
 - c. **A Tan 2002 Chevrolet Silverado, bearing Ohio license plate HETZEL**, bearing Vehicle Identification Number (VIN) 1GCEK19T32E245898 (hereinafter referred to as **SUBJECT VEHICLE**, as more fully described in Attachment A-3).

¹ According to Dayton Power & Light records, this outbuilding maintains a separate utilities account from the main residence of 136 West Main Street, West Carrollton, Ohio. Records from Dayton Power & Light show the Outbuilding as having a separate address of 26 North Smith Street, West Carrollton, Ohio. Because, as discussed in paragraph 6 below, Montgomery County property records list the outbuilding under the property records for the 136 West Main Street address, this application refers to the outbuilding under that address. This application seeks only authorization to search the outbuilding of 136 West Main Street, and not the main residence or any other outbuildings located at that address.

3. A list of the specific items to be seized from each of the premises/vehicle is attached hereto as Attachment B and incorporated herein by reference. Based on my training and experience, as described above, I believe that there is probable cause to believe that the items listed in Attachment B will be found at or in the premises/vehicle described in Attachments A-1, A-2, and A-3.
4. All of the details of the investigation are not included in this Affidavit, only information necessary to establish probable cause that evidence associated with firearms offenses is located in each of the premises/vehicle.

III.

FACTS SUPPORTING PROBABLE CAUSE

5. On March 16, 2018, Affiant became aware of **Matthew W. Hetzel** (hereinafter **HETZEL**) when the FBI received a call-in tip that reported threatening statements made by **HETZEL**. In a follow-up interview, conducted with the reporting party (CHS 1)² on the same day, CHS 1 reported to Affiant that **HETZEL** was in possession of at least several dozen firearms and many thousands of rounds of ammunition. CHS 1 indicated that **HETZEL** lived and stored his firearms primarily at his residence, **SUBJECT PREMISES 1**, and that CHS 1 had also seen **HETZEL** keep several firearms at the auto shop he operated, located in an outbuilding behind **136 W. Main Street, West Carrollton, Ohio** (**SUBJECT PREMISES 2**).
6. On or about March 19, 2018, your Affiant conducted a check of Montgomery County, Ohio, property records for **SUBJECT PREMISES 1**. The records indicated that the owner of the property was “Hetzell Matthew W.” and that the property was purchased on March 16, 2010. On May 11, 2018, your Affiant conducted a check of Montgomery County, Ohio, property records for **136 W. Main Street, West Carrollton, Ohio**. The records indicated that the owner of the property was “Kristin M Hetzel.” The records also indicated that **SUBJECT PREMISES 2** is listed as an outbuilding for this address. On April 26, 2018, your Affiant observed **HETZEL** exiting **SUBJECT PREMISES 2**. Additionally, records obtained from Dayton Power & Light show that utility accounts for **SUBJECT PREMISES 1** and **SUBJECT PREMISES 2** are in the name of Tommie L. Hetzel, **HETZEL**’s wife.
7. On March 19, 2018, your Affiant conducted a query of the criminal history of **HETZEL**. The query revealed that **HETZEL** had been convicted on October 17, 1997 of a Felony of the Third Degree for Corrupting Another with Drugs, in violation of Ohio Revised Code § 2925.02(a)(4)(A), which is a crime punishable by imprisonment for a term exceeding one year under Ohio law.
8. On March 22, 2018, CHS 1 reported observing a handgun in **SUBJECT PREMISES 2**. CHS 1 reported that the gun was located in the drawer of a toolbox. CHS 1 provided a

² CHS 1 has provided information to the FBI for less than one year. CHS 1 has a criminal history involving a prior arrest for auto theft. The FBI has not provided any payment to CHS 1.

photograph of the gun, which depicts an Arcus brand handgun, silver and black in color, S/N 20DE100401.

9. On March 31, 2018, CHS 1 was at **SUBJECT PREMISES 1**. CHS 1 observed a gun safe in the corner of the detached garage located just north of the residence. CHS 1 observed that, inside the gun safe, were eight to ten firearms, including both hand guns, and long guns, and one pistol-gripped shotgun.
10. On May 18, 2018, a second FBI confidential human source (CHS 2)³ met with **HETZEL** outside of **SUBJECT PREMISES 1**. During their conversation, which was consensually recorded, CHS 2 and **HETZEL** began discussing how American citizens own firearms to protect themselves. **HETZEL** stated, “I don’t carry one on me, because it just causes so much trouble nowadays, but anywhere I’m at, especially if I am at home, I’m within 20 feet of one, I’m close enough.” **HETZEL** went on to state, “Both my daughters, their 18th birthday present, when they move out, they each got a shotgun to put in their house. My oldest one just turned 21, I bought her a nine millimeter to carry in her purse, for her 21st birthday.”
11. On May 22, 2018, CHS 1 reported to the FBI that on a day in the early months of 2018, CHS 1 met with **HETZEL** at **SUBJECT PREMISES 1**. At that time, CHS 1 observed multiple labeled cardboard boxes of .223 ammunition in the bed of **HETZEL**’s vehicle, the **SUBJECT VEHICLE**, which was parked in the driveway of **SUBJECT PREMISES 1**. Ohio BMV records show that the **SUBJECT VEHICLE** is registered to “Matthew W. Hetzel.”
12. On May 18, 2018, your Affiant requested and obtained sales records from Aim Surplus, LLC in Monroe, Ohio, a seller of firearms, ammunition and firearms accessories. The records showed on October 28, 2013, Aim Surplus, LLC sold and shipped an order to “Matthew Hetzel, 4495 Infirmary Rd, Miamisburg, OH 45342.” The order consisted of twenty (20) .223/5.56 magazines with thirty (30) round capacity, and one used Mil. Spec .50 caliber ammunition can. Aim Surplus records indicated the order type was “Ecommerce (AIM website).” An Aim Surplus employee advised the FBI that “Ecommerce” indicates that **HETZEL** conducted the purchase online rather than coming to the store.
13. Based on my training and experience, your Affiant knows that individuals often maintain magazines and ammunition cans in the vicinity of firearms and ammunitions.
14. Based on training and experience, your Affiant knows that individuals are increasingly utilizing laptop computers and other smaller devices such as cellular telephones, iPads, and tablets to do their computing. These devices are typically maintained in the owners’ residences or places of business. Due to their portable nature, individuals also sometimes take such devices with them when they travel by vehicle.

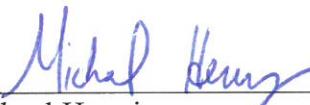
³ CHS 2 has been a FBI source for over 12 years. The CHS has no criminal history. The CHS has been paid approximately \$90,000 over the course of 12 years, but has not received any payment related to this investigation.

15. Again based on training and experience and examination of similar devices, your Affiant knows that iPhones and most Android cellular telephones have the ability to connect to the Internet. Your Affiant also knows that computers, cellphones and other electronic devices can store information for long periods of time.
16. This application requests authorization to seize such devices. As discussed above, the purchase conducted at Aim Surplus of magazines and ammunition cans was conducted online. Accordingly, there is probable cause to believe that **HETZEL** maintains electronic devices and that evidence of violations of 18 U.S.C. § 922(g)(1) is located on those devices.

IV.

CONCLUSION

17. Based on the facts set forth in the Affidavit, your Affiant submits that there is probable cause to believe that evidence, contraband, fruits of a crime, other items illegally possessed in violation of Title 18, United States Code, § 922(g)(1) is located at or in **SUBJECT PREMISES 1, SUBJECT PREMISES 2, and the SUBJECT VEHICLE**. Your Affiant, therefore, respectfully request that attached warrants be issued authorizing the search and seizure of the items listed in Attachment B.



Michael Herwig
Special Agent
Federal Bureau of Investigation

Sworn to and subscribed before me this 29th day of May 2018.



SHARON L. OVINGTON
UNITED STATES MAGISTRATE JUDGE


ATTACHMENT A-1

DESCRIPTION OF PREMISES TO BE SEARCHED

4495 Infirmary Road, Miamisburg, Ohio 45342 (SUBJECT PREMISES 1) is a two-story white-colored residential building with a dark-colored roof. The numbers “4495” are located on the side of the mailbox. The property has multiple outbuildings. The premises to be searched includes all rooms, attics, basements, surrounding grounds, curtilage, storage areas, and outbuildings, as well as any safes located on the premises.

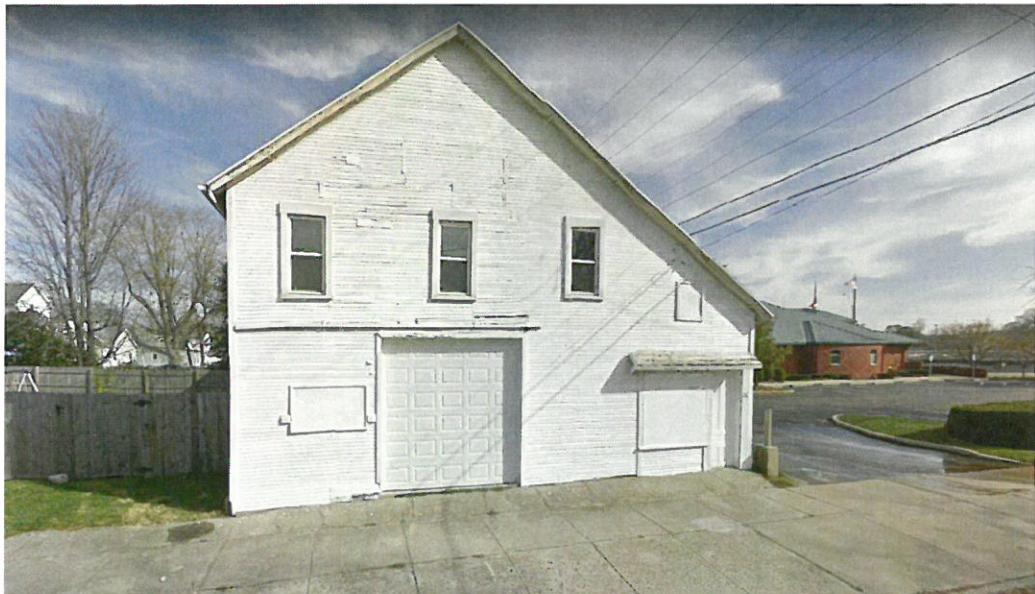


ATTACHMENT A-2

DESCRIPTION OF PREMISES TO BE SEARCHED

Outbuilding located behind 136 West Main Street, West Carrollton, Ohio 45449

(SUBJECT PREMISES 2), also known as 26 North Smith Street, West Carrollton, Ohio, is a two-story white-colored building with a grey-colored roof and bay door that enters from North Smith Street. The premises to be searched includes all curtilage, rooms, attics, basements, and storage areas of the outbuilding, as well as any safes located on the premises.



ATTACHMENT A-3

DESCRIPTION OF VEHICLE TO BE SEARCHED

Tan 2002 Chevrolet Silverado, bearing Ohio license plate HETZEL (SUBJECT VEHICLE), is registered to Matthew W. Hetzel, and bears Vehicle Identification Number (VIN) 1GCEK19T32E245898.



*Some decals may have been removed or added

ATTACHMENT B

PROPERTY TO BE SEIZED

The items to be searched for and seized are evidence, contraband, fruits of crime, and other items illegally possessed, as well as property designed for use, intended for use, relating to violations of 18 U.S.C. § 922(g)(1), including, but not limited to:

- A. Log books, records, payment receipts, notes, and/or customer lists, ledgers, and other papers or electronic records relating to the transportation, ordering, purchasing, and/or sale of firearms and/or ammunition;
- B. Address and/or telephone books and papers reflecting names, e-mail and physical addresses and/or telephone numbers of individuals, partnerships, or corporations involved in the purchasing or selling of firearms to/from prohibited persons;
- C. Indicia of occupancy, residency, and/or ownership of the premises, and vehicles including, but not limited to utility and telephone bills, canceled envelopes, keys, deeds, tax bills, titles, vehicle registrations and documentation regarding storage units/lockers;
- D. Firearms and ammunition;
- E. Firearms accessories and accoutrements, including but not limited to gun boxes, safes, gun holsters, magazines, and sights;
- F. Electronic devices that can access the internet, including but not limited to desktop computers, laptops, iPads, tablets, cellular telephones, digital video recording devices and storage media, and any attached storage devices such as thumb drive, external hard drives, CD's, DVD's and SD cards.